

STATEMENT OF PURPOSE

RS23368

Nearly everyone today has digital assets, such as documents, photographs, e-mails, social media, LinkedIn, and so forth. Such digital assets may have real value, both monetary and sentimental. However, Internet service agreements, passwords that can be reset only through the account holder's e-mail, and federal and state privacy laws that do not contemplate the account holder's death or incapacity may prevent fiduciaries (for example, powers of attorney, conservators, personal representatives) from gaining access to these valuable assets. Many small businesses may operate largely through these digital assets and the death or incapacity of the account holder may drive the business into insolvency if the fiduciary cannot access the digital assets. This bill is the result of a national dialogue and cooperation including the major players in the digital asset industry. The bill allows access to the digital assets by a fiduciary. It also gives the account holder control by allowing the account holder to specify whether their digital assets should be preserved, distributed to heirs, or destroyed. The fiduciary must provide proof of authority by a certified document. The bill also protects copyright and so forth by being subject to the Copyright Act and the Electronic Communications Privacy Act. A custodian of a digital asset, such as Facebook, who complies with the fiduciary's request are immune from liability. Since digital assets travel across State lines nearly instantaneously, and people relocate, it is desirable to have a uniform law in as many jurisdictions as possible.

FISCAL NOTE

This bill will have no fiscal impact.

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